Part 4E: Overview and Scrutiny Procedure Rules

1. Appointment of scrutiny committees
   1.1 The Council will have the scrutiny committees set out in Part 3 of the Constitution.
   1.2 Scrutiny committees for other purposes may also be appointed by the Council for a fixed period.
   1.3 The Council will appoint members to the scrutiny committees in accordance with the Council Procedure Rules, as supplemented by these rules.
   1.4 Scrutiny committees may appoint sub-committees to exercise responsibilities on their behalf.

2. Role and Functions of scrutiny committees
   2.1 The role and functions of scrutiny committees are set out in Article 6 of the Constitution. The terms of reference of standing scrutiny committees are set out in Part 3 of this Constitution.
   2.2 For the avoidance of doubt, the Council’s scrutiny committees shall have all rights given to it by section 21, Local Government 2000 and any other rights given by law.

3. Meetings of scrutiny committees
   3.1 Scrutiny committees shall meet in accordance with an programme of meetings approved by the Civic Affairs Committee and in accordance with Rules 37 to 50 of the Council Procedure Rules.
   3.2 Procedure at meetings of scrutiny committees will be governed the Council Procedure Rules which apply to committees, as supplemented by these rules.

4. Membership of scrutiny committees
   4.1 All councillors except members of the executive may be members of a scrutiny committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved. Members may also be precluded from participation if they have a prejudicial interest under the Members’ Code of Conduct set out in Part 4 of this constitution.
   4.2 Executive Councillors may attend meetings of scrutiny committees and may speak but not vote. However, Executive Councillors should normally only routinely attend a scrutiny committee to which their executive role relates.

5. Co-opted Members
   5.1 Each scrutiny committee or sub-committee may appoint such non-voting co-opted members as they choose. Co-opted members may be appointed either in respect of the whole work of the committee or sub-committee, or in respect of specific aspects of that work.
6. **Quorum**
6.1 The quorum for a scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

7. **Who chairs scrutiny committee meetings?**
7.1 The Chair of a scrutiny committee meeting shall be determined in accordance with Rule 41 of the Council Procedure Rules.

8. **Work programme**
8.1 There shall be two principal aspects to the work of scrutiny committees: advance scrutiny of key decisions and other selected decisions which fall to be made by members of the Executive and a wider consideration of performance and other matters falling within a committee’s terms of reference. As regards the latter, the scrutiny committees and sub-committees will be responsible for setting their own work programme. In doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

9. **Agenda items**
9.1 The rights of members of the Council, co-opted members and elected tenant and leaseholder members of the Housing Scrutiny Committee to request the inclusion of items on scrutiny and sub-committee agendas are set out in paragraph 3.2 of Appendix F of the Council Procedure Rules.

9.2 The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council or the executive to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the executive and/or the Council.

10. **Advance scrutiny of Executive Decisions**
10.1 As set out in Rule 8.1 above, part of the work of scrutiny committees is advance scrutiny (also referred to as “pre-scrutiny”) of key decisions and other selected decisions which fall to be made by members of the Executive. The rules in this section explain how non-key decisions are to be selected for pre-scrutiny and set out some other rules for advance scrutiny.

10.2 The Council’s Forward Plan will contain details of non-key decisions, as well as key decisions. So far as practical, extracts from the Forward Plan relating to non-key decisions falling within the remit of a scrutiny committee will be reported to that scrutiny committee before the date on which the decision is due to be made.

10.3 Where notice of a non-key decision is given to a scrutiny committee in the manner envisaged by Rule 10.2, the scrutiny committee may, but need not, select that decision for advance scrutiny. Selection of a decision for advance scrutiny requires the agreement of two members of the scrutiny committee. If two members call for advance scrutiny of a decision, the other members of the committee cannot reject this call.
10.4 Where notice of a non-key decision is not given in the manner envisaged by Rule 10.2, the Democratic Services Manager shall give written notice to the members of the scrutiny committee as soon as is reasonably practicable. Upon receiving notice, any two members of the scrutiny committee may select the decision for advance scrutiny, subject to Rule 10.6.

10.5 Where it is not possible to give at least 15 clear working days' notice of a decision under Rule 10.4, the decision shall be referred to the scrutiny committee for advance scrutiny.

10.6 Whether notice of a non-key decision has been given under Rule 10.2 or under 10.4, and regardless of any consideration under Rule 10.3, any two members of the scrutiny committee may select the decision for advance scrutiny provided that notice is received by the Democratic Services Manager at least 10 clear working days before the date on which the Executive Councillor will make the decision or at least 10 working days before the scrutiny committee meeting which immediately precedes that date, whichever is the earlier. Notice need not be given in writing.

10.7 An Executive Councillor may ask a scrutiny committee to give advance scrutiny to a non-key decision within his or her portfolio.

10.8 The rules for advance scrutiny shall not apply in relation to urgent decisions.

10.9 Only one scrutiny committee shall give advance scrutiny to an executive decision, whether key or non-key. Where a matter for decision falls within the remit of more than one scrutiny committee, the chairs of those scrutiny committees shall seek to agree which committee shall (or shall have the option to) give advance scrutiny to it. Where chairs of scrutiny committees cannot agree, the Chair of the Strategy & Resources Scrutiny Committee shall determine the issue.

10.10 When the procedure in Rule 10.9 is invoked in respect of a key decision, or when this leads to a non-key decision being selected for advance scrutiny, reports relating to the decision shall be circulated to members of all scrutiny committees within whose remit it falls. The scrutiny members who will not formally be scrutinising the report may submit comments to the Chair of the scrutinising committee.

11. Policy review and development
11.1 The role of the scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in part 4 of this Constitution.

11.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committee or sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.
11.3 scrutiny committees may (subject to the availability of resources) hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11.4 Insofar as its deliberations relate to Council functions which are not Executive functions or matters which are not the responsibility of the Council, a scrutiny committee may address reports, recommendations and observations to Council committees, officers, the full Council and bodies and persons outside the Council.

12. Reports from scrutiny committee
12.1 Once it has formed recommendations on any issue, the scrutiny committee will submit these to the Democratic Services Manager for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

12.2 If a scrutiny committee cannot agree on one single view of an issue to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

12.3 The Council shall consider reports to it from a scrutiny committee at its next meeting and the executive shall consider reports to it from a scrutiny committee within one month of being submitted to the Democratic Services Manager.

13. Making sure that scrutiny reports are considered by the executive or policy committees
13.1 Once a scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the Democratic Services Manager who will allocate it to either or both the executive and the Council for consideration, according to whether the contents of the report would have implications for the Council’s budget and policy framework.

13.2 If the Democratic Services Manager refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council.

13.3 When the Council meets to consider any referral from a scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the executive to the scrutiny proposals.
14. **Rights of scrutiny committee members to documents**
14.1 In addition to their rights as councillors, members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

14.2 Nothing in this paragraph prevents more detailed liaison between the executive and scrutiny committee as appropriate depending on the particular matter under consideration.

15. **Members and officers giving account**

15.1 Any scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive the head of paid service and any senior officer to attend before it to explain in relation to matters within their remit:

1. any particular decision or series of decisions;

2. the extent to which the actions taken implement Council policy; or

3. their performance.

and it is the duty of those persons to attend if so required.

15.2 Where any member or officer is required to attend a scrutiny committee under this provision, the chair of that committee will inform the Democratic Services Manager. The Democratic Services Manager shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

15.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

16. **Attendance by others**

16.1 A scrutiny committee may invite people other than those people referred to in Rule 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
17. **Call-in**

17.1 Call-in should only be used in exceptional circumstances. These are where members of the appropriate scrutiny committee have evidence which suggest that the policy committee did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

17.2 When a decision is made by the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made.

17.3 All members of the scrutiny committee within whose remit such a decision falls will be sent a copy of the record of the decision within the same timescale, by the Democratic Services Manager.

17.4 Within five days of dispatch of a record of decisions under Rule 17.3, a majority of members of an appropriate scrutiny committee may, by written notice, requisition a special meeting of the committee. The business of the meeting shall be to review or scrutinise the decision in question and the committee may:

1. recommend the Leader to reconsider it, if it has not been implemented;

2. invite the full Council to review or scrutinise the decision with a view to deciding whether to recommend the Leader to reconsider, if it has not been implemented;

3. make comments or representations to the Leader concerning the decision;

4. invite the full Council to review or scrutinise the decision with a view to deciding whether to make comments or representations to the Leader concerning the decision;

17.5 Special meetings requisitioned under Rule 17.4 shall summoned by the Chief Executive or the Democratic Services Manager at a date and time which they shall fix in consultation with the Chair of the scrutiny Committee and any minority group spokespersons.

17.6 Except for reasons of urgency, or where a decision has already been implemented, implementation of “called in” decisions shall be deferred pending a decision as to whether the executive should reconsider.

17.7 A record of all decisions (whether “key” or not) taken by the executive and of key decisions taken by officers since the last meeting shall be included on the agenda at each meeting of the appropriate scrutiny committee. The committee shall be entitled to review or scrutinise these.
17.8 Decisions referred back for further consideration under this call-in procedure shall be reconsidered promptly by the Leader. A written note of the Leader’s response shall be circulated to members of the scrutiny committee or, where a referral has been made by the full Council, to all members of the Council.

18. Procedure at scrutiny committee meetings
18.1 Scrutiny committees and sub-committees may set their own procedure subject to compliance with the law and with express provisions in this Constitution.

19. Matters within the remit of more than one scrutiny committee
19.1 When a scrutiny committee wishes to consider matters which fall substantially within the remit of more than one scrutiny committee, it shall inform the Chair and minority group spokespersons for the other scrutiny committee or committees and either agree ways in which the committees can work together or agree ways in which the views of the other committee or committees can be considered. This rule shall not apply to advance scrutiny where Rule 10.8 applies.

20. Convention on Whipping at Scrutiny Committees
20.1 This convention applies only to the proceedings of the Council’s scrutiny committees.

20.2 The application of a party whip in respect of

- matters for executive decision which are submitted to a scrutiny committee for prior consideration (“pre-scrutiny”) and
- matters for executive decision which are “called in” under the Council’s Overview and Scrutiny Procedure Rules

shall be a matter for political groups and is not subject to Council rules or conventions.

20.3 A party whip will not generally be applied in respect of other matters which fall for consideration by a scrutiny committee, although this remains a matter for political groups. In cases where a party whip is applied in respect of these other matters, members subject to it must declare the existence of the whip, and the nature of it, before the commencement of the committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.
Appendix 1: Tenant and Leaseholder Members of the Housing Scrutiny Committee

1. **Conduct of elections**

   1.1 Elections for tenant and leaseholder representatives shall be managed by the Resident Engagement Officer and subject to independent scrutiny to be arranged by the Strategic Director.

   1.2 Elections shall be by secret postal ballot.

   1.3 Those eligible to vote shall be:

   - Any tenant or joint tenant of the City Council’s local authority housing stock
   - Any leaseholder or named joint leaseholder of a residential property in the City Council’s local authority housing stock

   1.4 Those eligible to stand for election shall be:

   - Any tenant or joint tenant of the City Council
   - Any leaseholder of a City Council residential property

   In addition, the criteria for standing for election will be the same that applies to candidates standing for election as a City Councillor.

   A former tenant or leasehold representative who ceased to be a member of the Board by virtue of Paragraph 7.3, or who has been removed from office under clause 5.3 shall not be eligible to stand for election unless the Housing Scrutiny Committee gives its consent. Such consent must be requested in writing addressed to the relevant Strategic at least 21 days before the date of the last Housing Scrutiny Committee preceding an election.

   1.5 The tenants and leaseholders shall elect their representatives by the Single Transferable Vote, following the current edition of the rules laid down in the publication "How to Conduct an Election by the Single Transferable Vote", published by the Electoral Reform Society. There shall be a minimum of five tenants and a maximum of one leaseholder elected for co-option to the Housing Scrutiny Committee by this method. The one leaseholder position shall be ringfenced for a representative who is themselves a leaseholder. If posts are uncontested i.e. the number who stand is equal to the number of available positions, then candidates may be appointed without a ballot.

   1.6 Tenant and leaseholder members of the Housing Scrutiny Committee shall stand down after four years and an election shall be held every four years to appoint the members of the board who are not councillors.

2. **Periods of office**
2.1 Tenant and leaseholder representatives shall be elected at four yearly intervals commencing in February 2008. All tenant and leaseholder representatives shall stand for re-election at the same time.

3. **Restrictions on eligibility**

3.1 The following shall not be eligible to serve as tenant or leaseholder representatives of the Board:

- Serving elected members of the City Council; and
- City Council employees whose jobs, in the opinion of the Strategic Director, substantially relate to the management of the Council’s housing stock or to the delivery of services to tenants or leaseholders.

4. **Roles, responsibilities and training**

4.1 Tenant and Leaseholder representatives shall subscribe to the Code of Conduct for Councillors adopted by the City Council, including any amendments.

4.2 The Strategic Director shall ensure that Tenant and Leaseholder representatives are given appropriate and adequate training and support.

4.3 Tenant and leaseholder representatives who commit serious breaches of the Code of Conduct, who bring the Scrutiny Committee into disrepute or who persistently infringe minor rules may be removed from office by the Scrutiny Committee following investigation and report by the Strategic Director and a fair hearing before the Scrutiny Committee.

5. **Expenses and Allowances**

5.1 The Council may agree to pay Tenant and Leaseholder representatives an attendance or other allowance for meetings and may agree to pay travel and other expenses. Claiming of such allowances will be optional.

5.2 The Strategic Director may arrange transport to and from approved meetings for Tenant and Leaseholder representatives who do not claim their expenses payments.

6. **Other Matters**

6.1 If a Tenant or Leaseholder representative dies in office or resigns the Scrutiny Committee may co-opt an eligible person to fill the vacancy until the next scheduled election date.

6.2 If a Tenant or Leaseholder representative ceases to meet the eligibility criteria in paragraph 4.1, s/he shall cease to be a member of the Scrutiny Committee and the Committee may co-opt an eligible person to fill the vacancy until the next scheduled election date.
6.3 If a Tenant or Leaseholder representative fails to attend three successive meetings of the Scrutiny Committee then the Committee may remove them from office, having first taken reasonable steps to invite them to explain the reason for their absence.

6.4 If an insufficient number of candidates stand for election as tenant or leaseholder representatives the Scrutiny Committee shall have the power to co-opt eligible individuals who wish to serve on the Committee until the date of the next scheduled election.